IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 6272 (S/S) OF 2001
(Old No. 4124 of 1993)

Yogendra Pal
S/o Sri Lakhraj Singh
Kisan Sahkari Chini Mills Limited
Nadehi, District Nainital …… Petitioner

Versus

1. U.P. Cooperative Sugar Factories Federation Limited, through its Managing Director, 9-A Rana Pratap Marg, Lucknow.
2. Kisan Sahkari Chini Mills Limited Through its General Manager Rajpur- Pooranpur, Nadehi District Nainital.
3. The District Magistrate/ Chairman Kisan Sahkari Chini Mills Limited Nadehi, Nainital.

……..Respondents

Shri S.N. Babulkar, Sr. Advocate, assisted by Shri C.K. Sharma, learned counsel for the petitioner.
Shri R.K. Raizada, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J

By means of this writ petition, moved under Article 226 of Constitution of India, the petitioner has sought following reliefs:-

1. A writ, order of direction in the nature of mandamus commanding the respondent No. 3 to approve the designation of the petitioner as Labour Officer/Supervisor Grade-B as recommended by the General Manager on 26th July, 1992.

2. Any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

3. An order or direction awarding costs of this petition to the petitioner

.

2. Heard learned counsel for the parties.

3. Brief facts of the case as narrated in the writ petition are that the petitioner was appointed in the year 1978 as a Clerk with Kisan Sahkari Chini Mills Ltd., Nadehi. He is a Law Graduate and also possesses Diploma in Labour Laws. He is also Post Graduate in Sociology and Economics. Petitioner's case is this that he is handling the labour matters, and vide order dated 17.06.1983, he was designated as Legal Assistant in the aforesaid establishment. Thereafter, vacancy arose for the post of Legal-Cum-Personnel Assistant. A duly constituted Selection Committee interviewed the petitioner and the petitioner was selected as Legal Cum Personnel Assistant in the aforesaid establishment. He was appointed so vide order dated 01.04.1984. It is stated in the writ petition that the petitioner's work has been unblemished and he had long experience pertaining to the legal and he had long experience pertaining to the legal and personnel matters of the establishment. It is further stated in the writ petition that a wage board was constituted vide notification dated 17th July, 1985, Known as 'Third Wage Board relating to

Sugar Mills'. It is alleged by the petitioners that now nomenclature of Legal Cum Personnel Assistant has been eliminated in notification dated 31.01.1991 (Annexure-6 to the writ petition) and a new post of Labour Officer Cum Supervisor Grade-B, is created. Considering the services rendered by the petitioner, the General Manager of Kisan Sahkari Chini Mills Ltd., Nadehi, made a recommendation on 26.07.1992 to the Administrator/District Magistrate that the petitioner-Yogendra Pal, Legal and Personnel Assistant be designated as Labour Officer Cum Supervisor Grade-B. A copy of said recommendation is Annexure-9 to the writ petition. The petitioner's grievance is that no decision has been taken on said recommendation. Hence this writ petition was filed before Allahabad High Court in the year 1993 from where it has been received by transfer under Section 35 of U.P. Reorganization Act, 2000, for its disposal.

4. A counter affidavit has been filed on behalf of the respondent-Kisan Sahkarki Chini Mills Ltd., Nadehi in which regarding the contents of para-2, 3, 4 and 5 of the writ petition, it is stated that no comment are needed on the same. It is further stated in the counter affidavit that no post of Labour Officer is provided in the staffing pattern. Regarding the rest of the contents, it is stated that

the same are argumentative in nature and the same can be argued at the time of final hearing.

5. In the rejoinder affidavit, the petitioner has reiterated the contents of the writ petition.

6. Copy of notification No. 556 (H.I.)/36-2-115 (HI)-89 Lucknow dated 31.01.1991, is annexed as annexure-6 to the writ petition, which shows that the Government has accepted the recommendations of the Wage Board. Schedule to this notification further discloses that a post of Labour Officer (Supervisor Grade B) has been created and the qualification and experience required to fill the said post is Graduate in Arts/Commerce/Science, with preference to law Graduate or/and Diploma in Social Work. In column 5 in respect of the entry of the Labour Officer (Supervisor Grade A), the Schedule, shows that ten years experience would be required as Labour Officer/ Supervisor Grade B for being promoted to the post of Labour Officer (Supervisor Grade A).

7. There is no dispute between the parties that the Wage Board has recommended the creation of the post of Labour Officer/ Supervisor Grade B. There is no dispute also to the fact that the recommendation of the Wage Board is accepted by the Government of India as well as the Government of U.P. As far as the eligibility of the petitioner to

the aforesaid post is concerned, the recommendation (copy annexure-9 to the writ petition) of the General Manager of the establishment supports the case of the petitioner. In the counter affidavit, the respondents have failed to show why the decision is not been taken on the recommendation of the General Manager on the representation of the petitioner regarding the designation of the petitioner as Labour Officer/Supervisor Grade B.

8. Having heard learned counsel for the parties, in the above circumstances, this Court has no hesitation in allowing the writ petition. Accordingly, the writ petition is allowed and the respondent No. 3-District Magistrate/Administrator of Kisan Sahkari Chini Mills Ltd., Nadehi, is directed to take decision on the recommendation dated 26.07.1992, made by the General Manager within a period of two months from the date of certified copy of this order is produced before said authority, keeping in mind that wok of Labour Officer/Supervisor Grade B is already being taken from the petitioner.

(Applications No. 2763 of 2007 and application No. 2438 of 2006, moved by the petitioner, are dismissed as not pressed).

Dated.21.09.2007 **(Prafulla C. Pant, J.)**

S